

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

11 SOCORRO VIDAL COLIN,

12 Petitioner,

13 v.

14 JUAN TORRIE,

15 Respondent.

Case No.: 3:16-cv-01403-BEN-AGS

**ORDER:**

- (1) ADOPTING REPORT AND RECOMMENDATION;**
- (2) DENYING MOTION TO STAY;**  
and
- (3) ORDERING PETITIONER TO SHOW CAUSE WHY HER PETITION SHOULD NOT BE DISMISSED AS UNTIMELY**

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22 Petitioner Socorro Vidal Colin filed a petition for writ of habeas corpus under 28  
23 U.S.C. § 2254 on June 8, 2016. (Docket No. 1). Subsequently, on June 13, 2016, the  
24 Honorable Ruben B. Brooks issued a notice regarding possible dismissal of Petitioner's  
25 petition for failure to exhaust state court remedies. (Docket No. 2). Petitioner then filed  
26 a motion to stay the federal proceedings while she returns to state court to exhaust the  
27 unexhausted claims. (Docket No. 4). Respondent filed an opposition, but Petitioner  
28 chose not to reply.

1       On December 23, 2016, the Honorable Andrew G. Schopler issued a Report and  
2 Recommendation recommending denial of Petitioner's motion to stay and issuance of an  
3 order to show cause why Petitioner's petition should not be dismissed as untimely.  
4 (Docket No. 12). "Within 14 days after being served with a copy of the recommended  
5 disposition, a party may serve and file written objections to the proposed findings and  
6 recommendations." Fed. R. Civ. P. 72(b)(2); *see also* 28 U.S.C. § 636(b)(1). The  
7 deadline to object has now passed, and neither party has filed any objections. For reasons  
8 that follow, the Report and Recommendation is **ADOPTED**.

9       A district judge "may accept, reject, or modify the recommended disposition" of a  
10 magistrate judge on a dispositive matter. Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C.  
11 § 636(b)(1). "[T]he district judge must determine de novo any part of the [report and  
12 recommendation] that has been properly objected to." Fed. R. Civ. P. 72(b)(3).  
13 However, "[t]he statute makes it clear that the district judge must review the magistrate  
14 judge's findings and recommendations de novo *if objection is made*, but not otherwise."  
15 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *see also*  
16 *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005). "Neither the Constitution nor  
17 the statute requires a district judge to review, de novo, findings and recommendations  
18 that the parties themselves accept as correct." *Reyna-Tapia*, 328 F.3d at 1121.

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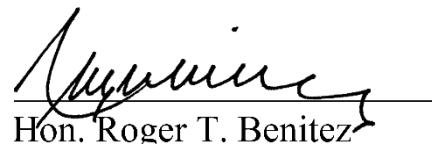
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1       The Court has considered and agrees with the Report and Recommendation. The  
2 Court **ADOPTS** the Report and Recommendation. (Docket No. 12). Petitioner's motion  
3 to stay is **DENIED**. (Docket No. 4). *See Blake v. Baker*, 745 F.3d 977, 981-82 (9th Cir.  
4 2014) ("[R]outinely granting stays would undermine the AEDPA's goals of encouraging  
5 finality and streamlining federal habeas proceedings.").

6       For the reasons discussed in the Report and Recommendation, Petitioner is  
7 **ORDERED TO SHOW CAUSE** why her petition should not be dismissed as untimely.  
8 A response to the order to show cause is due by **March 6, 2017**.

9       **IT IS SO ORDERED.**

10      Dated: January 27, 2017

  
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12      Hon. Roger T. Benitez  
13      United States District Judge

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